ARGUMENT

1. The Office Action rejected claim 15 under 35 USC 103(a) as being unpatentable over Summers '841 in view of Hickman. Applicant traverses the rejection.

The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness.[1] If the Examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of non-obviousness.[2]

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.[3]

Applicant respectfully traverses the § 103 rejection because the office action has not established a *prima facie* case of obviousness.

The Office Action states, in part:

> Summers shows a bow string release having an attached strap. However, it is not clear if the strap has a padded layer, and a substantially non-stretchable layer. One would be aware that a padded layer would be desirable for comfort, and a non-stretchable layer would be desirable for increase [*sic*] accuracy. For example, Hickman shows that a wrist strap may include two layers of material such as leather; leather would be considered soft padded material; and may be "substantially" non-stretchable; "substantially" is a broad term that does not clearly define the characteristics of the material. Since one would recognize that the strap of a bow string release would be desirable if it is padded and substantially non-stretchable, it would have been obvious to one of ordinary skill in the art to use the strap of Hickman with the release of Summers.

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[1]MPEP Sec. 2142.

[2] Id.

[3]Id. (emphasis supplied)

A. First, there is no suggestion in either Summers or Hickman to combine the references.

Not only is it "not clear" as the Office Action suggests, that Summers has the claimed padded layer and substantially non-stretchable layer, but Summers does not even disclose what material the strap is made of or the presence of more than one layer of material. Thus, the Examiner has not shown any motivation within Summers to make the combination with Hickman.

Further, Hickman does not disclose any use for the strap to be attached to a bow string release. Thus, the Examiner has not shown any motivation within Hickman to make the combination with Summers.

The Examiner must then be relying on the knowledge of one of ordinary skill in the art to make the combination. However, the Examiner has not defined the level of skill of one of ordinary skill in the art as required by *Graham v. John Deere*.[4] Therefore, the Examiner's comments on obviousness to one of ordinary skill in the art do not meet the requirements for establishing obviousness. Instead, the Examiner is relying on Applicant's own disclosure to make the combination. This is impermissible.

B. The references, even if combined, do not disclose or suggest all claimed elements.

In response to the previous Office Action, Applicant asserted that leather is a stretchable material, and in support of this assertion enclosed pages from the Internet that indicate that leather is stretchable.

Because leather is stretchable, the Examiner's assertion that leather is substantially non-stretchable is incorrect.

Webster's Third New International Dictionary defines "substantial" as:

> **4a** being that specified to a large degree or in the main.

Thus, "substantially" means "largely" or "mainly."

The Examiner has not shown any evidence, contra to the evidence previously presented by Applicant, that leather is largely or mainly non-stretchable. In fact, Applicant has presented evidence to the contrary.

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[4] MPEP 2141

Furthermore, the Specification at page 3 provides some guidance as to the intended meaning of "non-stretchable:"

> ...and a second non-stretchable layer that provides the strap with a robust design that prevents the strap from stretching, and prevents holes in the strap from expanding through repeated use, among other benefits.

There is nothing within Hickman that suggests that the strap is substantially non-stretchable. Hickman shows holes in the strap but makes no suggestion that the strap is substantially non-stretchable to prevent the holes from expanding through repeated use.

On Thursday, April 13, 2006, a telephone interview was held with the Examiner by Gerald E. Helget and Nelson R. Capes. Agreement was reached that the Hickman reference (2,394,856) does not disclose a multi-layer strap for a bow string release comprising a padded layer and a substantially non-stretchable layer overlaying said padded layer over substantially all of the padded layer.

For the above reasons, claim 15 is allowable.

2. The Office Action rejected claims 17-21 as being anticipated by Summers '841. Applicant respectfully traverses the rejection.

A single prior art reference anticipates a claimed invention only if it discloses each and every claim element.[5]

As to claim 17, Summers does not disclose a means for maintaining the second end in a semi-closed position relative to the first end.

The Examiner argues that "[w]hen the pin is engaged with the middle hole, the strap is considered to be in a "semi-closed" relationship."

Applicant respectfully disagrees. No matter which hole the pin is engaged with, when the strap is placed around the archer's wrist the strap is closed.

Claim 17 is allowable.

Claims 18-19 contain elements or limitations beyond allowable claim 17 and are also allowable.

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[5] *Structural Rubber Prod. Co. v. Park Rubber Co.*, 749 F.2d 707, 223 USPQ 1264 (Fed. Cir. 1984)

As to amended claim 20, Summers does not disclose "wherein the pin is not engaged with the second end but the strap does not fall off the archer's wrist." If the pin of Summers is not engaged with one of the holes, the strap will fall off the archer's wrist.

Claim 20 is therefore allowable.

Claims 21 and 23-27 contain additional elements or limitations beyond allowable claim 20 and are also allowable.

For the above reasons, Applicant requests allowance of all claims.

Respectfully submitted,

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By: _____

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